



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,227	06/16/2006	Paul J. Caronia	63847A US	8222

109 7590 07/02/2007
THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION,
P. O. BOX 1967
MIDLAND, MI 48641-1967

EXAMINER

RABAGO, ROBERTO

ART UNIT	PAPER NUMBER
----------	--------------

1713

MAIL DATE	DELIVERY MODE
-----------	---------------

07/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,227

Applicant(s)

CARONIA ET AL.

Examiner

Roberto Rábago

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16, 17 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16, 17 and 24-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14, 16, 17 and 24-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(a) Claims 25 and 26 are indefinite because they depend from cancelled claims. For the purpose of applying prior art, these claims will be assumed to depend from claim 24.

(b) In claim 27, line 4, the meaning of "composition of into" is not understood. It would appear that either some words are missing following "of", or "of" should be deleted.

(c) In claims 1, 14, 16, 17, 24 and 26, the intended scope of "nominal" is indefinite. The word occurs in combination with a melt processing temperature, melt processing rate, or crosslinking temperature, and therefore a numerical range appears to be intended. However, neither the specification nor claims provide any clear basis to determine the intended scope of ranges corresponding to "nominal." It would appear that the word means either "conventional" or "minimum." If the intended meaning is "conventional," then the scope is still indefinite because applicants have provided no

basis to determine the intended conventional range, particularly in view of the fact that the process as a whole is unlimited and substantially unidentified regarding specific structural components. If the intended meaning is "minimum," then the limitations "greater than the nominal temperature" or "greater than the nominal rate" are essentially irrelevant because no reference process would sensibly run a melt fabrication/crosslinking process at the absolute minimum temperature or rate which is physically possible.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-9, 11, 14, 16, 17, and 24-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Debaud et al. (US 20050192419).

The reference discloses in Examples 1, 3, 5 and 6 a composition comprising LDPE or EPDM, a peroxide, and TEMPO or functionalized TEMPO, which is then melt processed and crosslinked, including all claimed limitations. Although the reference has not measured TS1 as recited in claims 24 and 25, reference Example 5 is substantially

Art Unit: 1713

identical to applicants' example 4, and therefore the claimed TS1 would appear to be inherent in the reference example. The burden of proof is shifted to applicants to show otherwise.

5. Claims 1-9, 11, 12, 14, 16, 17, and 24-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Debaud et al. (US 20040195550).

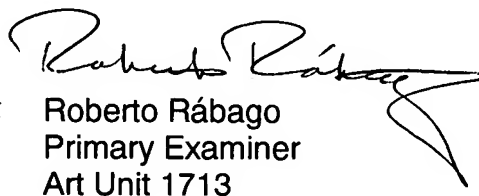
The reference discloses in Examples 1, 3, 5 and 7 a composition comprising LDPE or EPDM, a peroxide, and TEMPO or functionalized TEMPO, which is then melt processed and crosslinked, including all claimed limitations of claims 1-9, 11, 14, 16, 17, and 24-26. Examples 3 and 7 furthermore include the promoter (i.e., "booster") of instant claim 12. Although the reference has not measured TS1 as recited in claims 24 and 25, reference Example 5 is substantially identical to applicants' example 4, and therefore the claimed TS1 would appear to be inherent in the reference example. The burden of proof is shifted to applicants to show otherwise.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1713

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Roberto Rábago
Primary Examiner
Art Unit 1713

RR
June 18, 2007